

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ALEJANDRO BENAVIDEZ,

Plaintiff,

v.

BURLINGTON NORTHERN SANTA FE  
CORP., ET AL.,

Defendants.

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CIVIL ACTION NO: 3:07-CV-00105  
(JURY TRIAL DEMANDED)

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**APPENDIX TO THE MOTIONS FOR SUMMARY  
JUDGMENT OF DEFENDANTS PURSUANT TO RULE 56**

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## **APPENDIX**

All summary judgment evidence in this appendix is incorporated by reference into the Motion for Summary Judgment of Defendant Railserve, Inc. and the Motion for Partial Summary Judgment of Defendants Deer Park Rail Terminal LLC; Deer Park Rail Terminal, Inc.; U.S. Development Group, Inc.; U.S. Development Group LLC; USD LLC and USD Terminals LLC Pursuant to Rule 56.

1. Rail Switching Agreement dated December 3, 2002 between Deer Park Rail Terminal, Inc. and Railserve, Inc.;
2. Excerpts from the deposition transcript of Alejandro Benavidez;
3. Excerpts from the deposition transcript of Timothy Benjamin;
4. Excerpts from the deposition transcript for Paul Tucker (February 13, 2006);
5. Excerpts from the deposition transcript for Paul Tucker (November 1, 2006);
6. Affidavit of Raymond A. Neuer; and
7. Affidavit of Paul Tucker.